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December 13, 1996

VIA FEDERAL EXPRESS

Office of the Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

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Re: In the Matter of the
Federal-State Joint Board on
Universal Service

Federal Communications Commission
Office of Secretary

CC Docket No. 96-45

TO THE HONORABLE COMMISSION:

Enclosed please find an original and four copies of Comments to be filed with the Commission in the above-referenced matter. Please time/date stamp the additional copy and return it to the undersigned in the enclosed, stamped envelope.

Respectfully submitted,

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of the)	
Federal-State Joint Board on)	
Universal Service)	
)	CC Docket No. 96-45
Comments on Universal Service)	
Recommended Decision)	

COMMENTS OF THE NEW JERSEY DIVISION OF THE RATEPAYER ADVOCATE

The New Jersey Division of the Ratepayer Advocate ("Advocate" or "Ratepayer Advocate") files these comments on the Recommended Decision adopted by the Federal-State Joint Board on Universal Service for the implementation of universal service directives under the Federal Telecommunications Act of 1996 ("Act" or "1996 Act").¹ The Ratepayer Advocate is a newly created agency pursuant to the New Jersey Reorganization Plan No. 001-1994. Our role, to protect and advance the interest of residential ratepayers in New Jersey, has been broadened to include representation of all classes of ratepayers -- residential, commercial, industrial and small

¹ Telecommunications Act of 1996, Pub. L. No. 104-1-4, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§ 151 et. seq.)(hereinafter "Act")

business -- and to be more involved in the policy and planning of laws and regulations which impact all New Jersey ratepayers. Our new mandate in the area of policy and planning is designed to afford the consumer a stronger voice in long range utility planning for the state.

The Advocate's comments are limited to the following areas addressed by the Recommended Decision, as described in the Public Notice issued by the Common Carrier Bureau on November 18, 1996: 1) addressing the needs of low-income consumers in all universal service provisions; 2) the deployment of advanced telecommunications services for not-for-profit schools and libraries at discounted rates, and 3) the administration of the Universal Service Fund.

1) Low Income

The Advocate would like to applaud the Federal-State Joint Board on its recommendations regarding low income consumers. As the statutory party responsible in the State of New Jersey for the representation of all consumers in utility matters, the Advocate has continually tried to bring attention to the need for assistance to ensure that all consumers, regardless of income, have the ability to access telecommunications services. With the ever increasing importance of technology in today's society, provisions, such as those recommended by the Federal-State Joint Board to address subscribership levels among low income consumers are very much needed to ensure that our society does not become stratified into two groups: those with access to telecommunications technologies and those who will be "technology-starved" unless actions are taken to ensure affordable access for all.

The importance of telephony in our society and the close relationship between low

income and low subscribership have been the subject of significant analysis by Rutgers

University, and the conclusions reached highlight the need to ensure that low income consumers have access to the network:

But regardless of point of view all telecommunications researchers accept the assumption that **the telephone represents functional membership in the information society**. [emphasis added] For example, people living without television or radio might appear rebellious, or to be adopting an alternative lifestyle. But people without telephones are seen as truly isolated from basic communication. Consequently, nearly all policy researchers agree that the remaining 6% of households without telephone service (estimated at 5.8 million households, and 15.3 million individuals) involves an excessive number of Americans.

Beyond Universal Service: Characteristics of Americans without Telephones, 1980-1993, Jorge Reina Schement, Department of Communication School of Communication, Information and Library Studies, Rutgers University (Communications Policy Working Paper #1 published by the Benton Foundation.)

A February 27, 1996 release of the FCC also emphasizes the importance of telecommunications in enabling a low income household to grow out of the ranks of low income customers:

In November 1995, the telephone subscribership rate was only 75.0% for households with annual incomes below \$5,000, while the subscribership rate for households with incomes over \$60,000 was 99.1%. The statistics may seem obvious, but they also point to a significant problem. **The increasing importance of the public switched network in connecting households to the economy means an increasing disconnect from the economy for those not on the network, making it harder for those households to escape poverty.**

FCC Press Release announcing release of telephone subscribership report of November 1995 (FCC, February 27, 1996) [emphasis added].

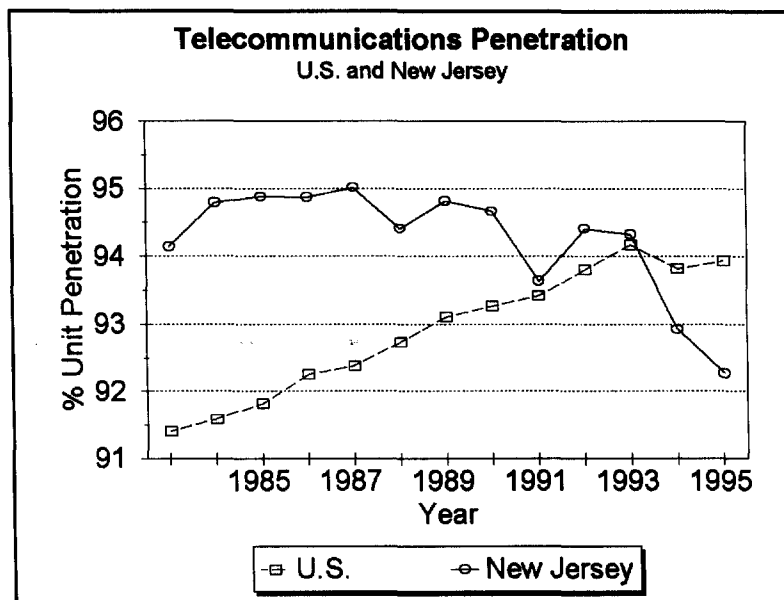
These reports emphasize that the need for measures to assist low income consumers in getting onto the network, and staying on, is more compelling than ever and is increasing daily, for the

technology gap experienced by low income households is not diminishing.

The Public Notice requested specific comment on what baseline amount of support should be provided to low-income customers, and whether the \$5.25 baseline amount suggested in the Recommended Decision was likely to be adequate. Theoretically, the level of assistance which can be provided to defray the cost of basic service for low income consumers should be sufficient enough to provide an incentive to increase subscribership levels. However, it should be noted that the individual characteristics of service provided in the individual states may decrease the effectiveness of the level of assistance provided.

A case in point is the current situation in New Jersey. New Jersey historically has adopted the practice of charging relatively low rates for residential local exchange service, with the hope that this would encourage subscribership. However, due to the extremely small local calling areas in New Jersey, low exchange rates may not be as important for purposes of universal service as in other jurisdictions where local calling areas are larger. Since local calling areas are small in New Jersey, every residential subscriber must necessarily rely more heavily on toll services for much of their calling needs, which tend to be high and unpredictable.

The Advocate believes that this is one of the reasons that although New Jersey has one of the lowest rates for residential exchange service in the nation, the State has experienced a continual decline in penetration rates since 1994. The following graph shows that although telephone unit penetration in the United States overall has tended to increase from 1983 through 1995, New Jersey's penetration rate, which exceeded the national average in 1983, dropped dramatically – 140 basis points – in 1994 and continued to fall in 1995.



Thus, despite having low rates for basic residential service, New Jersey's penetration rate fell below the national average in 1994 and has stayed there. Thus, the key to increasing subscribership levels among low income consumers does not lie solely within providing a low rate for basic service. In recognition of this anomaly in New Jersey, the Advocate has recommended to the New Jersey Board of Public Utilities in its Local Exchange Competition docket that, in order for universal services provisions to be effective, some allowance must be made to include a measure of local toll as part of what is available for low income subscribers in New Jersey.

The Ratepayer Advocate concurs with the Joint Board's recommendations to include voluntary toll blocking within the definition of universal service to be provided to low income consumers. The Advocate also recommends that qualifying low income customers who elect toll

blocking service should receive additional support, through elimination of the customer deposit requirement, waiver of service connection charges and elimination of denial of service for non-payment of toll bills. However, due to the specific problem in New Jersey described above of small calling areas, the Ratepayer Advocate would urge that toll blocking services not be limited to low income consumers only, but should be extended to all residential consumers, who may wish to avail themselves of this service option. Toll blocking provides consumers with the tools needed to control toll charges which may otherwise prove variable and unpredictable. Although this measure has even greater importance to persons of limited income, it should also be available for use by other consumers to expand, enhance, and customize their particular choice of telecommunications services in the new competitive marketplace.

The Ratepayer Advocate strongly supports the Joint Board's recommendation that the FCC eliminate the state matching requirement for the Lifeline program and provide a baseline level of federal support that would be available to low income consumers. We agree with the Joint Board's acknowledgment that low income consumers in those states that did not participate in the Lifeline program were unfairly disadvantaged.

The Commission's current Lifeline program requires states to provide support from intrastate sources to reduce Lifeline subscribers' bills by an amount at least equal to the amount of federal support. As a result, **low-income consumers in states choosing not to provide such matching support lack the opportunity to benefit from the Lifeline program.** We recommend that the Commission modify the lifeline program to ensure that low-income consumers may receive Lifeline support without regard to the state in which they reside.

Recommended Decision at ¶418 (emphasis added).

Unfortunately, New Jersey currently remains one of the few states that does not offer a

Lifeline program for its low income consumers, which the Ratepayer Advocate considers a contributing factor to New Jersey's declining penetration rate. With the removal of the state matching requirement, New Jersey low income consumers would no longer be held captive while waiting for action from the State to provide matching funding, and would no longer be denied from receiving all Federal support which is available to them. Additionally, the State would finally receive some benefit from monies collected from telecommunications carriers for the purpose of assisting low income consumers.

2) Schools and Libraries

The provision of access to technology for schools and libraries undoubtedly is one of the most important issues to be tackled by the FCC and the Federal State Joint Board on Universal Service. The Recommendations will provide the initial steps needed to begin the process of ensuring that the nation's schools and libraries meet the technological needs of all citizens in the information age.

The enormity of the resources needed to complete this task is recognized, and makes it incumbent that regulators, educators, librarians and the telecommunications industry work together to reduce the telecommunications costs of our schools and libraries to the maximum degree possible, thus increasing the funding available for the considerable costs associated with equipment and training that must also be resolved. If successful, these provisions will help to (1) establish a sufficient technological capability within schools so that students and school districts are able to obtain the full benefits of educational technology; (2) provide an appropriate number of computers in the classrooms so that computers are fully integrated into all aspects of

the curriculum and computer access is more than just a dream to the majority of the nation's students; and (3) establish local libraries as technology centers that can be used by all citizens to access the Internet and other information.

To aid in this endeavor, the Ratepayer Advocate recommends that telecommunications service providers be required to provide local exchange service and all other services tariffed separately for residential subscribers to eligible nonprofit schools and libraries at rates that are no higher than those at which equivalent services are provided to residential customers on a statewide basis. In New Jersey, the affordability of telecommunication services for many schools and libraries is hampered because they are served under the LEC's commercial tariffed rates. This recommendation recognizes not only the fiscal pressures on schools and libraries, but also that, for many users, the only practical vehicle for accessing the Internet will be through schools and libraries. In other words, for many citizens, school and library telecommunications provide the means for telecommunications that, for others, *is* residential service. Additionally, the local exchange service provided to schools and libraries does not differ substantially from that provided to residential consumers, and thus, would not require additional costs for telecommunications carriers.

The Ratepayer Advocate also concurs with the inclusion of internal wiring of all classrooms within the scope of services eligible for the recommended discounts ranging from 20% to 90%. The importance of addressing the costs for providing internal access for schools and libraries cannot be underestimated. The discounts for the provision of Internet access and telecommunications services be meaningless if schools and libraries cannot afford the cost of wiring the facilities for access. The discounts will provide assistance to many states, such as

New Jersey, which faces the challenges presented by wiring classrooms in older school buildings, and thus, may result in greater than average costs for providing access due to the age of the physical plant.

3) Administration

The Public Notice requests comment on whether contributions for high cost and low-income support mechanisms should be calculated on the basis of both the intrastate and interstate revenues of carriers that provide interstate telecommunications services, based on the factors enumerated in the Recommended Decision. The Ratepayer Advocate agrees with the Joint Board's recommendation for using both intrastate and interstate revenues for the calculation of contributions. By measuring the contributions on combined intrastate and interstate revenues, telecommunications providers would have no incentive to manipulate and misreport jurisdictional revenues. Additionally, it comports with the Joint Board's recommendation that there be competitive neutrality, by not distinguishing between interstate and intrastate revenue streams. The Ratepayer Advocate recommends that if the FCC determines in its final rules that it is properly within its jurisdiction to assess contributions for universal service support in this fashion, then the individual states should also be permitted to assess contributions based likewise on the combined interstate and intrastate revenue of carriers, should they choose to institute State created programs for the preservation and advancement of universal service, pursuant to Section 254(f) of the 1996 Act.